IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc.Application No. 852 of 2005

1 Surat Singh s/oSri Abbal Singh
Owner of Sumit Autio-Video,
Main Bazar, Uttarkashi,
2 Sardar Jagdeep Singh
s/oLate Sri Satpal Singh
3 Rajendra Rawat
S/o late Sri Pancham Singh Rawat
Both are r/oMain Bazar, Uttarkashi applicants

Versus

1 State of Uttaranchal,
Through Home, Secretary Uttaranchal
2 Anil Maral
Sub Inspector
Police Station Kotwali, District Uttarkashi

Opposite parties.

Hon'ble B.C.kandpal, J

This petition under Section 482 Cr.P.C. has been filed by the applicants who have been summoned by the Judicial Magistrate Uttarkashi for facing the trial in criminal case No. 29 of 2004 State of Uttaranchal vs Harish Semwal under Sections 292,420,497, IPC, 4/6 Indecent Representation of Women Act 1986 and Section 7 Cinematography Act vide order order dated 27.7.2004.

A revision against the aforesaid order was filed by the applicants before the court of Sessions Judge, Uttarkashi who also dismissed the same vide order daed 7.11.2005.

Feeling aggrieved against the aforesaid impugned orders the petitioners haves filed this petition before this court.

Heard, learned counsel for the petitioners, learned AGA and perused the record.

The learned counsel for the petitioners has argued that on the basis of confessional statement of the accused Harish Semwal before

the police the petitioners have been summoned by the trial court. He has submitted that the confessional statement made before the police is not admissible in the eyes of law. It has been submitted that nothing has been recovered by the police from the possession of the petitioners and no case is made out againt the petitioners. He has also argued that no prima facie case is made out against the petitioners.

The contention raised by the learned counsel for the applicants relates to factual aspect of the matter which can be assessed and examined by the trial court during the course of trial.

From the perusal of the impugned order passed by the learned Judicial Magistrate as well as Learned Sessions Judge I find that there is a prima facie case made out against the petitioners.

I do not find any infirmity in the impugned judgment passed by the learned court below.

I am not supposed to embark upon an enquiry with regard to reliability of evidence and sustainability of the accusations of a reasonable appreciation of evidence at this stage. Any judgment given by me at this stage would amount to premature decision in a case where the evidence before the trial court is yet to be adduced by the prosecution.

I do not find any abuse of process of law by the learned court below. The petition lacks merit and is liable to be dismissed.

Accordingly the petition is dismissed.

(B.C.Kandpal, J)

1.12.2005
nbj